REMARKS

Claims 1-3, 5, 8-11, and 14-18 are pending in this application. Claims 1-3 had been withdrawn. Claims 5, 8, 11, and 14 are independent claims.

Claim Rejection under 35 USC 102(b) - Fukuda

Claims 5, 8, 11, 14, 15, 17, and 18 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,953,290 (Fukuda). Applicants respectfully traverse this rejection.

> Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. Dismissed, 468 U.S. 1228 (1984); W.L. Gore and Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. Denied, 469 U.S. 851 (1984).

Claim 5

Embodiments related to claim 5 are directed to a cellular phone (e.g., Fig. 1) having a code-reading terminal including an imaging device (e.g., camera 7) for imaging encoded data (e.g., reading two-dimensional code - shown in Figs. 6A and 6B; see bottom paragraph at page 6) including a header portion and a body portion, the header portion including a data identifier (e.g., data identifier D in Fig. 3) indicating the type of data in the body portion.

The cellular phone includes a data identifying unit that recognizes said data identifier (e.g., Fig. 4, step S3, - described at page 7 - the data identifier is analyzed by the data identifying function 19a of the CPU 19; at page 5, the data identifying function 19a is for identifying the type of data that is obtained by reading a code) and estimates the type of said encoded data imaged by said imaging device based on said recognized data identifier (e.g., if the data identifier is "00" or "ff", the data is determined not to be text data); and a control unit that reads the contents of said encoded data in a manner suited for the type of data estimated by said data

identifying unit and reproduces the thus read data (e.g., Fig. 8, step S40; Fig. 4, step S7 text data is displayed, or step S25 ring tone data is reproduced).

Fukuda

Fukuda discloses an invention that relates to a recording medium for storing data and a reproduction apparatus for reproducing the data ("Field of the Invention"). The recording medium includes an audio data group and a display data group ("Abstract"). Fukuda's invention seeks to display the display data synchronously with reproduction of audio data ("Title").

Fukuda discloses a display data pack 123 having a header 134, and an audio data pack 125 including a header 132. Fukuda discloses that header 132 includes an identification code, and audio data identification code, and data format identification information (col. 6, lines 14-24). In the audio data pack 125 in which the header is included, is an audio data stream 133 that has been coded with PCM, MPEG, audio, AC3, or the like (col. 6, lines 25-31).

In particular, Fukuda teaches an "identification code" for each type of data pack, including display data pack 123, audio data pack 125, as well as reproduction control pack 122. Fukuda discloses that the identification code for the reproduction control pack is for identifying that the pack is the reproduction control pack (col. 6, lines 4-5), that the identification code for the audio data pack is for identifying that the pack is the audio data pack (col. 6, lines 18-19), and the identification code for the display data pack is for identifying that the pack is the display data pack (col. 6, lines 42-43). Fukuda further discloses a "data identification code." In the case of the audio data pack 125, the "audio data identification code" stored in the header is used to identify the type of audio data, e.g., Japanese audio data (col. 6, lines 25-29). Fukuda also discloses "data format identification information," for identifying the data format of the audio data stream. Thus, Fukuda's "identification code" appears to be for discriminating the type of data pack as being either a display data pack or an audio data pack. Fukuda's "audio data identification code" appears to be for discriminating the type of audio data.

Differences over Fukuda

The Office Action is silent with respect to the claimed "cellular phone." Furthermore, Fukuda fails to teach a "cellular phone." Accordingly, the rejection fails to establish *prima facie* anticipation of claim 5.

The Office Action alleges that Fukuda's header 132 and audio data pack 125 teaches the claimed "header portion" and "body portion". The Office Action alleges that Fukuda's reading head 202 teaches the claimed "imaging device."

Applicants submit that Fukuda's reading head 202 does not meet the usual and customary definition of an imaging device for imaging, since it does not perform any of the functions that an imaging device would perform, as would be understood by one of ordinary skill in the art. In addition, Fukuda's reading head does not meet the customary dictionary definition of "imaging" in the context of image forming devices; a dictionary definition of "imaging" is: to create a visual representation of something. Fukuda's reading head does not create a visual representation.

The Office Action relies on a section in Fukuda at col. 5, line 45, to col. 6, line 14, for teaching the claimed features related to the data identifying unit and control unit.

Applicants submit that Fukuda fails to teach, "a data identifying unit that recognizes said data identifier" in a header portion of an image of encoded data, as recited in the claim. In the present claimed invention, the data identifier is included in an image of encoded data. As mentioned above, the present CPU has "a data identifying function 19a for identifying the type of data that is obtained by reading a code." In reading a two-dimensional code, "the data identifier is analyzed by the data identifying function 19a of the CPU 19."

The rejection refers to encoded data in the body portion, but does not indicate that the data identifier is also encoded. Applicants submit that one of ordinary skill in the art of image processing would understand the difference between recognizing an identification code of Fukuda and recognizing an encoded identifier in an image of the present claimed invention. Applicants submit that Fukuda does not teach or suggest the claimed "data identifying unit that recognizes said data identifier", where the encoded data includes a header portion including a data identifier, as required by the claim.

For at least the above reasons, Applicants submit that the rejection fails to establish *prima facie* anticipation for claim 5.

Claims 8, 11, 14

Similar to the above for claim 5, claims 8 and 14 also recite "an imaging device." The same argument as above applies as well to claims 8 and 14.

Similar to the above for claim 5, claims 8, 11, and 14 also recite "recognizing(recognizes) the data identifier and identifying(estimates) the data type of the encoded data imaged." The same arguments as above for claim 5, apply as well to claims 8, 11 and 14.

Applicants submit that the rejection should be reconsidered and withdrawn.

Claim Rejection under 35 USC 103(a) – Wang, Fukuda

Claims 5, 8, 9, 11, and 14-18 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,659,167 (Wang) in view of Fukuda. Applicants respectfully traverse this rejection.

The Office Action relies on Wang for teaching most claimed elements. However, Applicants submit that Wang does not teach or suggest recognizing the data identifier and identifying the data type of the encoded data imaged, in the context of an encoded data identifier.

The claims had previously been amended to clarify that the data identifier that is in the header portion of the encoded data is recognized by the data identifying unit. A reason for the clarification was that the data identifier, like the body portion, is encoded in the image captured by the camera and must be recognized. According to the present specification, the CPU 19 has a data identifying function 19a for identifying the type of data that is obtained by reading a code (i.e., recognizing). The data identifier is analyzed by the data identifying function 19a.

Wang does not teach coding audio data in a displayable image and reproducing the displayable image as audio. For example, Wang does not disclose displayable images for PCM, MPEG audio, and AC3, and much less the encoded data of the present claimed invention.

The Office Action relies on Fukuda only for teaching a header having an identifier to identify the type of code.

Furthermore, with regard to the combination of Wang and Fukuda, the Office Action at page 4 states,

"With respect to data being ring tone data or audio type of data, this is merely a recitation of the intended use. There is no structural difference between the claimed invention and the prior art, it is not patentably distinguish from the prior art. The prior art structure is capable of performing the intended use. And with respect to the terminal being a cellular phone, such specific limitation is for meeting specific customer requirement."

Applicants submit that Wang and Fukuda, either alone or in combination, do not disclose structure that is capable of performing the claimed intended use. In other words, the references do not teach a structure that would be capable of reproducing audio data based on a displayable dataform.

Applicants submit that Wang does not teach reproduction of a ring tone/audio sound from its "dataform." Wang specifically limits its dataform to data having a visual representation for display by a display unit. In the Abstract, for example, Wang states that, "interactive decoding of machine readable dataforms provides improved control of decoding." Each drawing in Wang includes a "display" element or a "display image" step. Wang's specification discloses interactive aspects based on the display. There is no teaching or suggestion in either reference of code audio data in a displayable image and reproducing the displayable image as audio. Applicants point out that PCM, MPEG audio, and AC3 do not have associated displayable images that would be applicable to the invention of Wang.

Instead, it appears that if Wang and Fukuda were to be combined, the resulting combination would be limited to display data packs, and the identification code would only identify the data pack as being a display data pack. Thus, the combination prior art structure would not be capable of reproducing either ring tone data or other audio data.

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In addition, the Office Action alleges that an artisan would have been motivated to integrate the scanner into a cellular phone in order to process audio/ring tone data. To the contrary, neither Wang nor Fukuda teach a cellular phone. Since neither reference discloses a cellular phone, there is no evidence to support the alleged integration of a scanner into a cellular phone.

For at least these reasons, Applicants submit that the rejection fails to establish *prima facie* obviousness.

Applicants submit that the rejection should be reconsidered and withdrawn.

CONCLUSION

In view of the above amendment, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Robert Downs Reg. No. 48,222 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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